

Tax charges dismissed against lumber store owner

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TOWN OF NIAGARA – All charges were dismissed in Town Court Wednesday against the owner of the local Gui’s Lumber chain, who had been falsely accused by the state of stealing \$589,000 in sales tax. Gail Villani, 63, of Grand Island, was charged in September with three felonies that could have landed her in prison for as long as 15 years, following a probe by the state Department of Taxation and Finance. However, defense attorney Barry N. Covert said an independent audit – something he said the tax department never did until it was compelled – proved that not only did Gui’s Lumber pay its sales taxes in full, it actually overpaid.

Covert said now that the criminal charges have been dismissed, he intends to demand repayment of the overpaid taxes. He said the report showed there was an overpayment of about \$100,000 in a single three-month period, meaning the overpayment could have been more than that. As for the possibility of a civil suit for false arrest, Covert said, “We will certainly explore all of our options.” The money allegedly was not paid between 2005 and 2009 by the Gui’s stores in the Town of Niagara, Springville, North Collins, Clarence and Batavia.

Covert said the Niagara County District Attorney’s Office cooperated with his efforts to audit the payments. The tax department issued a revised report Friday that cleared Villani. “It’s very difficult to understand how they could have misunderstood the payments and how the books and records worked,” Covert said. “They seemed to be relying on a database from Ace (Hardware) headquarters that we told them they should not be relying upon. When they finally conducted their own independent audit, it appears that they found that the clients all along were telling the truth and had been paying appropriately.”

Covert said he doesn’t know why the case was opened in the first place. He said Joel M. Grundy, an assistant Niagara County district attorney who prosecuted the case, said in court that Friday’s report, in Covert’s words, “destroyed any chance that they could prove the case.” Grundy could not be reached for comment Wednesday. A tax department spokesman said he could not comment because of privacy provisions in the tax code. “The tax department just got it wrong, and it’s great that the DA’s office did the right thing,” Covert said.